REMARKS/ARGUMENTS

Claims 1, 10-24, and 45-48 are pending in this application. Claims 2-9 and 25-44 were previously withdrawn without prejudice.

All claims remaining in the application are believed to be in condition for allowance. Reconsideration and reexamination of the application is respectfully requested in view of the following remarks.

Rejection Under 35 USC §112, ¶1

Claim 45 stands rejected under 35 USC §112, ¶1. The Examiner asserts that the specification does not reasonably provide enablement for a cabinet assembly comprising both interconnecting panels and interconnecting frame elements. The rejection is traversed.

The Manual of Patent Examining Procedure (MPEP) states in section 2164:

> "The information contained in the disclosure of an application must be sufficient to inform those skilled in the relevant art how to both make and use the claimed invention.... Detailed procedures for making and using the invention may not be necessary if the description of the invention itself is sufficient to permit those skilled in the art to make and use the invention."

"The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation." *United States v. Telectronics, Inc., 857 F.2d 778, 785 (Fed. Cir. 1988).*

Paragraph [0051] of the application states: "The term 'cabinet assembly' is utilized herein to define the structural assembly that is formed from various structural components that can include a framework, enclosure panels, interconnecting panel elements, securing fasteners, support surfaces, mounting and assembly brackets, and the like. As will become apparent to those skilled in the art, the materials and particular structural details of the cabinet assembly 22 can vary considerably and yet fall within the scope of the present invention."

Paragraph [0075] states: "As illustrated in FIG. 9, and as discussed previously, the components of the laundry center 20 can be modular in construction. For example, each element of the integrated cabinet assembly can comprise a frame such as that of a drawer frame 150

illustrated in FIG. 9. ... Each portion of the laundry center 20 can be formed in this manner using various frame and panel parts." Paragraph [0076] states: "Also discussed above, an alternative embodiment illustrated in FIG. 8 includes constructing the integrated support assembly 22 by assembling a plurality of interconnecting panels in a desired arrangement to creating discrete spaces 24."

The specification clearly describes the cabinet assembly as capable of being formed from a framework, panels, interconnecting panel elements, and the like. Since the cabinet assembly comprises a modular assembly of box-like containers, doors, drawers, and the like, a person reasonably skilled in the art of woodworking, cabinetry, and similar arts would be capable of making or using the cabinet assembly from the disclosure, particularly with information known in the cabinetmaking art and readily available to the public. No undue experimentation would be required to create a cabinet assembly comprising a combination of panels, interconnecting panel elements, a framework, and the like, in accordance with the limitations of claim 45. Claim 45 is adequately enabled and patentable. The rejection of claim 45 under 35 USC §112, ¶1 should be withdrawn.

Applicants request that the rejection under 35 USC §112, ¶1 be withdrawn, and that claim 45 be allowed.

Rejection Under 35 USC §112, ¶2

Claims 1, 10-24, and 45-48 stand rejected under 35 USC §112, ¶2 as allegedly indefinite. The Examiner asserts that the use of the phrases "sized to house a washing machine" and "sized to house a clothes dryer" fails to define the metes and bounds of the claimed patent protection sought. The rejection is traversed.

Resolution of this issue is controlled by *Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1 U.S.P.Q.2d (BNA) 1081 (Fed. Cir. 1986)*. In *Orthokinetics*, the patent at issue disclosed a collapsible pediatric wheelchair which facilitated the placing of wheelchair-bound persons, particularly children, in and out of an automobile. Claim 1 of the patent at issue reads, in pertinent part, "In a wheel chair having a seat portion, a front leg portion, and a rear wheel assembly, the improvement wherein said front leg portion is so dimensioned as to be insertable

through the space between the doorframe of an automobile and one of the seats thereof...." An alleged infringer defended on the grounds that claim 1 was invalid under 35 USC §112, ¶2, because the phrase "so dimensioned as to be insertable through the space between the doorframe of an automobile in one of the seats thereof" was indefinite. The Federal Circuit disagreed.

> A decision on whether a claim is invalid under § 112, 2d para., requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification. ... It is undisputed that the claims require that one desiring to build and use a travel chair must measure the space between the selected automobile's doorframe and its seat and then dimension the front legs of the travel chair so they will fit in that particular space in that particular automobile. Orthokinetics' witnesses, who were skilled in the art, testified that such a task is evident from the specification and that one of ordinary skill in the art would easily have been able to determine the appropriate dimensions....The claims were intended to cover the use of the invention with various types of automobiles. That a particular chair on which the claims read may fit within some automobiles and not others is of no moment. The phrase "so dimensioned" is as accurate as the subject matter permits, automobiles being of various sizes.... As long as those of ordinary skill in the art realized that the dimensions could be easily obtained, § 112, 2d para. requires nothing more. The patent law does not require that all possible lengths corresponding to the spaces in hundreds of different automobiles be listed in the patent, let alone that they be listed in the claims. (Citations omitted.)

Orthokinetics, 806 F.2d at 1577.

This is precisely the issue here. Claim 1 calls for a plurality of interconnecting panels that define a washer discrete space sized to house a washing machine and a clothes dryer discrete space sized to house a clothes dryer. This language is conceptually indistinguishable from the language in *Orthokinetics* calling for a leg portion to be so dimensioned as to be insertable through the space between an automobile door frame and seat. Claim 1 in essence calls for a plurality of interconnecting panels defining a space "so dimensioned" as to be able to house either a washing machine or a clothes dryer. A person of ordinary skill in the art could easily determine the dimensions of such a space based upon a selected washer and/or clothes dryer. The phrase "sized to house" is as accurate as the subject matter permits, washers and dryers

being of various sizes. The fact that the vast majority of washing machines and clothes dryers are standard sized "is of no moment," yet would further facilitate the determination of the dimensions of such a space. Claim 1 is not indefinite and is patentable. The rejection of claim 1 under 35 USC §112, ¶2, should be withdrawn.

Since claims 10-24 and 45-48 depend from claim 1, these claims are also not indefinite for the same reasons. Applicants request that the rejection under 35 USC §112, ¶2, be withdrawn, and that claims 1, 10-24, and 45-48 be allowed.

Rejection Under 35 USC §103 (a)

Claims 1, 10, 12-14, 20, and 45-48 stand rejected under 35 USC §103(a) as allegedly unpatentable over Japanese Patent Application Publication No. 09-010492 of Sanka in view of Japanese Patent Application Publication No. 07-088299 of Toshio or Japanese Patent Application Publication No. 07-096096 of Toshio, as evidenced by U.S. Patent No. 5,466,058 to Chan. The rejection is traversed.

Claim 1 calls for an integrated laundry center comprising an integrated cabinet assembly comprising a plurality of interconnecting panels that define a plurality of discrete spaces including a washer discrete space sized to house a washing machine, a clothes dryer discrete space sized to house a clothes dryer, and at least one supplemental drying discrete space. An air moving device is arranged to deliver air to the supplemental drying discrete space.

Sanka '492 discloses a cabinet having a lower section B for storing a washing machine 40 and an upper section A comprising a clothes drying chamber. Items to be dried are placed in the upper section A, and a clothes dryer 30 circulates air through the upper section A to dry the clothes. The upper section A is utilized in place of a clothes dryer.

Toshio '299 discloses a cabinet 3 having a lower enclosure for containing a washing machine 1 and an upper enclosure for containing a dryer 2. The enclosures are provided with doors to conceal the washer and dryer. The cabinet 3 enclosing the washing machine 1 and the dryer 2 is adapted to be used in a utility room, a lavatory, or a kitchen. *See, paragraphs [0001] and [0002].* Toshio '096 also discloses a cabinet 3 having a lower chamber for enclosing a washing machine 1 and an upper chamber for enclosing a dryer 2. An air exhausting apparatus

16 is mounted on top of the cabinet 3. A storage cabinet 29 can be attached to the top of the cabinet three over the air exhausting apparatus 16. The cabinet 3 is adapted to be used in a utility room, a lavatory, or a kitchen. The Detailed Description indicates that the compact size and ease of installation of the cabinet 3 are important aspects of the invention.

Chan '058 discloses a modular storage system formed from a plurality of stackable rectilinear storage units. The modules can comprise open storage spaces, drawers, doors, and the like.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

> A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**[1]
>
> A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."
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> Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to

1 The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co., 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).*

> establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.
>
> The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096 to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

Indeed, both Toshio '299 and Toshio '096 teach away from the combination asserted by the Examiner since the inventions of both references are directed toward storage units for washers and dryers that are compact and capable of placement in a laundry room, lavatory, or kitchen, which in the typical Japanese home are substantially smaller than in the typical American home. One looking to develop an extensive, multi-module laundry system would not look to references whose focus is on compact storage cabinetry intended for use in small living spaces.

Even if the combination of Sanka '492 with either Toshio '299 or Toshio '096 were proper, the combination still would not reach Applicants' invention. Claim 1 in essence calls for a first compartment for a washing machine, a second compartment for a dryer, and a third, supplemental drying compartment with an air moving device for delivering air to the supplemental drying compartment. As made clear in the Detailed Description, the supplemental drying compartment of claim 1 is intended to supplement the dryer and to be used for drying items that are not appropriate for the clothes dryer located in the second compartment. However, the combination of Sanka '492 with either Toshio '299 or Toshio '096 would not result in a cabinet having three compartments as asserted in the office action. Each of Sanka '492, Toshio '299, and Toshio '096 disclose a two compartment cabinet structure, with one of the compartments housing a washer and another housing a dryer. In the case of Sanka '492, the dryer is built in. In the case of the Toshio patents, the dryer is a household dryer. Any combination of the Toshio patents with Sanka '492 would result in replacing the built-in dryer of Sanka with the householder dryer of the Toshio patents, not the addition of a third compartment housing a different type of dryer. Toshio '096 does teach a third compartment, but it is limited to storage only. There is no support in any of the references for a combination that would put one of the dryers in the storage compartment of Toshio '096. Any such combination is based solely on impermissible hindsight reconstruction.

Therefore, the combination of the references disclose nothing more than a cabinet with a washer compartment and a dryer compartment, with the dryer being either built-in or stand alone. This combination does not reach the claimed invention that requires three compartments as claimed.

Claims 10, 12-14, 20, and 45-48 depend, directly or indirectly, from claim 1 and, for the same reasons, are not unpatentable over Sanka '492 in view of Toshio '299 or Toshio '096. Applicants request the withdrawal of the rejection of claims 1, 10, 12-14, 20, and 45-48, and the allowance of claims 1, 10, 12-14, 20, and 45-48.

Claims 11, 15-16, and 21-24 stand rejected under 35 USC §103(a) as allegedly unpatentable over Sanka '492 in view of Toshio '299 or Toshio '096, and further in view of U.S. Patent No. 502,237 to Proctor. The rejection is traversed.

Proctor '237 discloses a cabinet-type dryer which comprises an enclosure having separate drying and air heating compartments. Heated air from the air heating compartment is delivered to the drying compartment by one or more fans. The drying compartment is adapted to receive drawers for supporting items to be dried in the air flow caused by the fans.

The addition of Proctor '237 to the underlying combination of Sanka '492, Toshio '299 and Toshio '096 does not remedy the previously described deficiencies in the underlying combination. As discussed above, the Examiner has failed to comply with the requirements for a finding of obviousness under 35 USC §103(a) for the underlying combination. For the current combination, the Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096 and with Proctor '237 to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096 and with Proctor '237. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

Assuming, *arguendo*, that the combination is proper, the addition of Proctor '237 would merely add drawers to the built-in dryer of Sanka '492, which fails to overcome the deficiency in the underlying combination, which does not show three compartments as claimed. Because claims 11, 15-16, and 21-24 depended, indirectly, from claim 1, and Proctor '237 does not correct the deficiencies discussed relating to the underlying combination, claims 11, 15-16, and 21-24 are patentable over Sanka '492 in view of Toshio '299 or Toshio '096, with or without Proctor '237.

Applicants request the withdrawal of the rejection of claims 11, 15-16, and 21-24, and the allowance of claims 11, 15-16, and 21-24.

Claims 17 -19 stand rejected under 35 USC §103(a) as allegedly unpatentable over Sanka '492 in view of Toshio '299 or Toshio '096, and further in view of U.S. Patent No. 5,720,108 to Rice. The rejection is traversed.

Rice '108 discloses a portable device, similar to a small hair blower, comprising a fan and heater which is configured with an air outlet for insertion into boots for delivering heated air for heating and drying the boots.

As discussed above, the Examiner has failed to comply with the requirements for a finding of obviousness under 35 USC §103(a). The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096 and with Rice '108 to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka '492 with either Toshio '299 or Toshio '096 and with Rice '108. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

Furthermore, claims 17-19 depended, indirectly, from claim 1. Rice '108 does not correct the deficiencies discussed above with respect to the combination of Sanka '492 with either Toshio '299 or Toshio '096 relative to claim 1. Consequently, claims 17-19 are not unpatentable over Sanka '492 in view of Toshio '299 or Toshio '096, with or without Rice '108.

Finally, even if the combination were proper, the combination of the portable Rice '108 boot dryer with Sanka '492 and either Toshio '299 or Toshio '096 would be completely impractical, if not impossible. At best, the combination would comprise a cabinet for storing a washer and dryer, with a portable boot dryer somehow attached to the cabinet, perhaps through an electrical cord. The size and configuration of the cabinet and portable boot dryer are so different as to make the asserted combination untenable. The asserted combination simply cannot be made.

Applicants request the withdrawal of the rejection of claims 17-19, and the allowance of claims 17-19.

It is respectfully submitted that the claims are allowable over the prior art of record. Prompt notification of allowability is respectfully requested.

Respectfully submitted,
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Dated: 11/14/05

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